THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.22282 of 1998

Date:26.07.2006

Between:

S.R.V.S.N.Raju

PETITIONER

AND

The Regional Manager and others

---------RESPONDENTS

ORDER:

The petitioner was appointed as a Driver Grade-II on 09.11.1979 in Vizianagaram Depot of A.P.S.R.T.C. In the year 1985, he was transferred to Visakhapatnam, on administrative grounds. With effect from 01.01.1987, Visakhapatnam division was trifurcated into Vizianagaram, Srikakulam and Visakhapatnam divisions. It is stated that the employees, in particular the Drivers were given option to be transferred to the respective newly formed divisions. The petitioner states that his request was not acceded to on the ground that he was out of service at the relevant point of time. Subsequently, he was transferred to Vizianagaram division on 30.04.1991, but his seniority was not restored. The representation made by the petitioner to the first respondent was rejected on 22.01.1997, on the ground that the petitioner was out of service at the relevant point of time. He challenges the action of the respondents in not restoring the seniority in Vizianagaram division.

On behalf of the respondents, a counter-affidavit is filed. It is stated that though the petitioner was initially appointed in

Vizianagaram Depot, which was part of Visakhapatnam division, he was transferred on administrative grounds to Visakhapatnam in 1985 and thereafter he was removed from service on two occasions. It is pleaded that as on 01.01.1997, when Visakhapatnam division was trifurcated, the petitioner was out of service and in that view of the matter, he was treated as non-opt when he came to be reinstated subsequently. It is alleged that the transfer of the petitioner on 30.04.1991 to Vizianagaram division was at his request, on condition that he would forego his seniority.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The petitioner seeks the relief of restoration of his seniority in Vizianagaram division with reference to his date of appointment. When he was appointed in 1979, Vizianagaram was part of Visakhapatnam division. He was transferred on administrative grounds to Visakhapatnam in the year 1985. The trifurcation of Visakhapatnam division took place in the year 1987. All the employees were given the option to be transferred to the divisions of their choice, particularly with reference to the place of their appointment. Had the petitioner been in service as on that date, the respondents would naturally have transferred the petitioner to Vizianagaram division, duly maintaining his seniority. However, he was removed from service on 27.09.1986, but came to be reinstated only on 14.11.1987. Within less than one year thereafter, he was removed from service once again on 09.09.1988 and was reinstated on 22.05.1990.

Even assuming that the reinstatement of the petitioner had restored him to his original place including that of the benefit of seniority, one fact which comes in the way of the petitioner being

extended the seniority in Vizianagaram division is that he sought transfer through a representation, dated 20.11.1990, to Vizianagaram division expressing his willingness to forego the seniority. It was on the basis of this representation that the petitioner was transferred to Vizianagaram division on 30.04.1991. Once the petitioner expressed his willingness to forego the seniority, while seeking transfer to Vizianagaram, it is not open to him to resile from it and claim seniority. Hence, this Court does not find any basis to grant any relief to the petitioner.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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26.07.2006

kdl